

**Town of Georgetown -- Appeal
Department Order #13-09, Mandatory Shoreland Zoning Act**

Excerpts from the Department's Record -- Communications

- **Draft Conditional Approval and Partial Denial #13-09 (April 7, 2009)**
- **Town of Georgetown Shoreland Zoning Ordinance (attested by C. Collins)**
 - **DEP Project Manager Notes**
 - **Zoning Data Maps // Resource Protection Maps**



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

DAVID P. LITTELL

COMMISSIONER

April 7, 2009

Catherine Collins
Town Clerk
Town of Georgetown
P.O. Box 436
Georgetown, Maine 04548-0436

Re: Conditional Approval/ Partial Denial of Shoreland Zoning Amendments

Dear Ms. Collins,

I have reviewed the recently amended Town of Georgetown Shoreland Zoning Ordinance, which was adopted on March 11, 2009, and received by the Department on March 16, 2009. In general, the amendments are consistent with the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines). However, my review has revealed several deficiencies in the amended Ordinance and Map that warrant a conditional approval/ partial denial. The attached draft Department Order #13-09, should clearly specify the discrepancies and the Department's proposed conditions.

In addition to the conditional order I have an additional noteworthy comment for the Town to consider. The Georgetown Shoreland Zone Data map is missing a freshwater wetland that occurs on the revised Inland Waterfowl & Wading Bird Habitat data layer. The wetland is located on the northeasterly corner of the intersection of Tibbett's Lane and Bay Point Road (see attached map). At the next available opportunity, the Town must amend its map to include this freshwater wetland and regulate it with a 250-foot Resource Protection District.

I have enclosed a **draft** copy of the proposed conditional approval for your review. If you or any other Town official has questions or concerns, feel free to contact me at 822-6328. If you have comments for the draft, please respond in writing by no later than 4 p.m., **April 17, 2009**.

Sincerely,

Mike Morse
Assistant Shoreland Zoning Coordinator
Bureau of Land and Water Quality

Enclosure: draft order #13-09, IWWH map

cc: Planning Board
file

IN THE MATTER OF

TOWN OF GEORGETOWN) MANDATORY SHORELAND ZONING ACT
SAGadahoc COUNTY) 38 M.R.S.A., SECTION 438-A(3)
SHORELAND ZONING ORDINANCE) CONDITIONAL APPROVAL AND
FILE #13-09) PARTIAL DENIAL

Pursuant to the provisions of 38 M.R.S.A., Section 435-449, and 06-096 CMR, Chapter 1000, State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, effective March 24, 1990, and amended through May 1, 2006, the Department of Environmental Protection has considered the shoreland zoning provisions within the Town of Georgetown Shoreland Zoning Ordinance for the TOWN OF GEORGETOWN, as amended through March 11, 2009, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires the Town of Georgetown (Town) to establish zoning controls in areas within 250 feet of the normal high water line of great ponds, and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of streams. Such zoning standards must be consistent with or no less restrictive than those in the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, (Guidelines) as adopted by the Board of Environmental Protection (Board).
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendments to that ordinance, is/are effective, it must be approved by the Commissioner of the Department of Environmental Protection (Department). The Department may approve, approve with conditions, or disapprove a locally adopted ordinance. If disapproved, or approved with conditions, such action must be preceded by notice to the municipality.
3. On March 16, 2009, the Town of Georgetown submitted a copy of their amended Shoreland Zoning Ordinance (Ordinance), as adopted on March 11, 2009, to the Department for review. The Ordinance includes numerous changes that affect shoreland zoning application. These changes were made in

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) 38 M.R.S.A., SECTION 438-A(3)
) CONDITIONAL APPROVAL AND
) PARTIAL DENIAL

order to update the Town's Ordinance in an effort to make it consistent with the May 1, 2006 Guidelines. The Department review of the Town of Georgetown Shoreland Zoning Ordinance revealed the following deficiencies:

- A. The use of the definition "Developed Area" to remove otherwise required Resource Protection Districts shoreline areas is inconsistent with the requirements of the Guidelines. Therefore, this definition must be deleted from the Ordinance.
- B. The recently adopted Georgetown Shoreland Zoning Data map (Map) has been amended to re-zone a number of lots that had previously been regulated with a Resource Protection District, to now be zoned with a Limited Residential District. This amendment causes the Map to be deficient of the required Resource Protection District designation on fourteen lots along moderate or high value salt marshes or salt meadows. The removal of the Resource Protection District from these lots does not comply with the Guidelines or the Department's policies for establishing 'areas which are currently developed'. The Town has not documented any special local conditions and submitted them to the Commissioner of the Department for review that supports the elimination of the Resource Protection District in the affected areas.

4. In a letter dated ^{April}~~March~~ 7, 2009, the TOWN OF GEORGETOWN was notified by the Department about the deficiency described in Finding 3.

Based on the above Findings of Fact, the Department makes the following CONCLUSIONS:

- 1. The Town of Georgetown Zoning Ordinance, as amended through March 11, 2009, is substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.S.R.A., Section 438-A, EXCEPT FOR the deficiencies described in Finding 3.
- 2. The Department can correct the deficiencies described in Finding 3 by approving the Town of Georgetown Shoreland Zoning Ordinance with the condition that the Ordinance be changed to reflect the concerns described in Finding 3.

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THEREFORE, the Department APPROVES the Shoreland Zoning Ordinance for the TOWN OF GEORGETOWN, as adopted on March 11, 2009, WITH THE FOLLOWING CONDITIONS:

1. The Town of Georgetown Shoreland Zoning Ordinance shall be amended to delete the term "Developed area" from Section 17, Definitions, of the Ordinance.
2. The removal of the Resource Protection District on fourteen lots as shown on the Town of Georgetown Shoreland Zone Data map is denied. The following fourteen lots shall remain zoned with a Resource Protection District as previously adopted by the Town:

· R2 L11	· R2 L2	· R3 L7-23
· R3 L7-24	· R3 L7-17	· R4 L26-9 -
· R6 L7E	· R8 L1-6	· R8 L1-5
· R8 L1-4	· R8 L1-3	· R8 L1-2
· R8 L1-1	· R6 L49	

DONE AND DATED AT AUGUSTA, MAINE, THIS ____ DAY OF April, 2009.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
David P. Littell, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Town of Georgetown Moderate & High Value Freshwater Wetlands- Revised



Legend

Map prepared April 7, 2009

 IF&W moderate and high value rated freshwater wetlands for shoreland zoning

This map shows only moderate and high value rated freshwater wetlands.

Please note that low value and non-rated freshwater wetlands are still required to be zoned, as they have been since 1989.